

ENTERED

October 12, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

ALBINO V. GARCIA,

Plaintiff,

VS.

AMERICAN SAVINGS LIFE
INSURANCE COMPANY; and DAVID R.
KARLE, substitute trustee,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 7:21-cv-00389

OPINION AND ORDER

The Court now considers this case. On October 1, 2021, Plaintiff Albino V. Garcia, purporting to act pro se, filed his “Original Petition and Request for Temporary Restraining Order” in County Court at Law No. 2 of Hidalgo County.¹ On October 4th, Attorney Juan Angel Guerra appeared on Plaintiff’s behalf in state court.² On October 12th, Defendants removed to this Court.³

The Court recognizes this case. It has been filed numerous times before. This case was first filed in civil action number 7:20-cv-408 on December 13, 2020; then in civil action number 7:21-cv-14 on January 11, 2021; then on August 11, 2021 in civil action number 7:21-cv-304; then on October 12, 2021 in this case. However, as this Court has repeatedly explained to Plaintiff and his wife and their attorney Juan Angel Guerra, this Court has competent jurisdiction and has already issued multiple final judgments in this foreclosure matter.⁴ Only sixteen days after this Court’s most recent final judgment, Plaintiff recommenced this case, presumably seeking a different result

¹ Dkt. No. 1-3.

² Dkt. No. 1-8.

³ Dkt. No. 1.

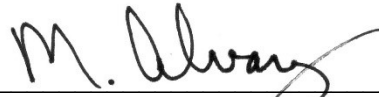
⁴ See *Martinez v. Am. Sav. Life Ins. Co.*, No. 7:21-cv-00304, 2021 WL 4192793 (S.D. Tex. Sept. 15, 2021) (Alvarez, J.).

than the one that has repeatedly obtained: Plaintiff has no claim against Defendant and no cause of action to prevent foreclosure.⁵ The doctrine of res judicata forecloses this repeated relitigation; slight name changes in the Plaintiff cannot avoid this result.⁶

Accordingly, the Court **DISMISSES** Defendant David R. Karle for the same reasons repeatedly discussed.⁷ The Court, again, **DISMISSES WITH PREJUDICE** all of Plaintiff's claims. The Court further **ORDERS** Plaintiff's counsel Juan Angel Guerra to appear before the Court on **Thursday, October 21, 2021, at 10:00 a.m.** to explain why he should not be sanctioned pursuant to Texas Rule of Civil Procedure 13⁸ for filing this frivolous action. Defendant may appear at the hearing but its appearance is not required.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 12th day of October 2021.

A handwritten signature in black ink, appearing to read 'M. Alvarez', is written over a horizontal line.

Micaela Alvarez
United States District Judge

⁵ Compare *Martinez v. Am. Sav. Life Ins. Co.*, No. 7:21-cv-00304, Dkt. No. 10 (S.D. Tex. Sept. 15, 2021) (Alvarez, J.), with Dkt. No. 1-3.

⁶ In the first case, the plaintiff was “Albino Villarreal,” followed by a case commenced by plaintiff “Claudia Villarreal,” followed by a case commenced by plaintiff “Claudia Martinez,” followed by this case commenced by “Albino V. Garcia.” The plaintiffs’ first names remain consistent. The changes in surnames appear to be artifices designed to avoid obvious claim preclusion.

⁷ See *Gonzalez v. Cmty. Loan Servicing, LLC*, No. 7:21-cv-00132, 2021 WL 1658522, at *1 n.16 (S.D. Tex. Apr. 27, 2021); *supra* note 4.

⁸ See *Tompkins v. Cyr*, 202 F.3d 770, 787 (5th Cir. 2000).